

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

number xxxxxx438, for right eye conjunctivitis and ruptured right biceps tendon. Thereafter, he received medical and wage-loss compensation.

The employee died on July 25, 2012. On September 19, 2012 appellant, the employee's widow, filed a claim for compensation by widow. The physician's portion of the form, dated September 3, 2013, was completed by Dr. Ravi Bhasker, a Board-certified family practitioner. He noted that the deceased fell from a ladder and sustained an injury to the right shoulder to include right shoulder strain and rotator cuff tear. It was noted that the deceased had "long[-]standing renal failure." The cause of death was listed as sepsis and pneumonia. Contributory causes were listed as diabetes and renal failure. In response to whether the death of the employee was due to the injury, Dr. Bhasker checked a box "no." This was developed in file number xxxxxx157. Both claims were combined by OWCP. In an August 7, 2012 death certificate, the certifying medical examiner, Dr. Syed Yusoof, a Board-certified internist, listed the cause of the July 25, 2012 death, as diabetes, chronic renal failure, and hypertension.

In a letter dated January 28, 2014, OWCP advised appellant that survivor benefits may be payable to eligible dependents if the death resulted from a job-related injury. It advised appellant of the type of medical evidence needed to establish that the job-related injury caused or contributed to the employee's death. OWCP allowed appellant 30 days to submit the requested information.

By decision dated March 4, 2014, OWCP denied appellant's claim for survivor benefits because the weight of the medical evidence did not support that the employee's death was causally related to his employment.

Appellant subsequently submitted a June 26, 2012 report from Dr. Farooque Ahmed, a Board-certified internist, who indicated that the employee had been hospitalized for septic shock and respiratory failure. Dr. Ahmed advised that the employee has recently acquired ventilator associated pneumonia and also had advanced renal disease. Other diagnoses included bilateral lower extremity deep vein thrombosis (DVT), upper extremity and internal jugular venous DVT, severe peripheral vascular disease, and chronic venous stasis. The employee had history significant for advanced diabetes mellitus, end-stage renal disease, nonhealing foot ulcers, postbilateral transmetatarsal amputations, and status post automatic implantable cardioverter defibrillator placement. Dr. Ahmed noted examination findings and his treatment recommendations. Appellant also resubmitted copies of her claim form and the employee's death certificate.<sup>2</sup>

On November 29, 2014 appellant requested reconsideration.

By decision dated December 24, 2014, OWCP denied modification of the prior decision.

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<sup>2</sup> The record also contains medical records of the employee prior to his death noting treatment for his shoulder condition as well as other conditions not related to his employment injury.

### **LEGAL PRECEDENT**

The United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of his or her duty.<sup>3</sup>

Appellant has the burden of proving by the weight of the reliable, probative, and substantial evidence that the employee's death was causally related to his employment. This burden includes the necessity of furnishing rationalized medical opinion evidence of a cause and effect relationship, based on a complete factual and medical background, showing causal relationship. The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale.<sup>4</sup>

### **ANALYSIS**

The Board finds that appellant has not established that the employee's accepted right shoulder condition or right eye conjunctivitis contributed to his July 25, 2012 death. Both the death certificate, signed by Dr. Yusoof, and the September 3, 2013 form report from Dr. Bhasker indicated that the employee died from nonwork-related medical conditions. The death certificate by Dr. Yusoof attributed the death to diabetes, chronic renal failure, and hypertension while Dr. Bhasker opined in his report that the death was due to sepsis and pneumonia with diabetes and renal failure being contributory causes. Dr. Bhasker specifically indicated that the employee's death was not due to his work injury.

There is no other medical evidence which explains how the employee's accepted conditions contributed to his death. Dr. Ahmed's June 26, 2012 report predates the employee's death. While it indicates that the employee had been hospitalized for septic shock and respiratory failure and suffered from a number of other conditions, Dr. Ahmed offered no opinion that the employee's accepted conditions contributed to his hospitalization or to his death. Other medical evidence of record also predates the employee's death. The Board finds that appellant failed to establish that the accepted work conditions were a contributing cause of the employee's death.<sup>5</sup>

On appeal appellant argued that the employee sustained pain and suffering as a result of his shoulder injury. She indicated that she believed that all of the pain medication he took over the years to ease his excruciating shoulder pain was a direct cause of his kidney failure and led to his premature death. The Board can find no medical evidence which attributes the accepted right shoulder condition to his death.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

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<sup>3</sup> 5 U.S.C. § 8102(a); *see* 5 U.S.C. § 8133 (compensation in case of death).

<sup>4</sup> *Lois E. Culver*, 53 ECAB 412 (2002).

<sup>5</sup> *See D.L. (R.L.)*, Docket No. 11-1993 (issued July 13, 2012); *Roger W. Griffith*, 51 ECAB 491 (2000); *Glenn C. Chasteen*, 42 ECAB 493 (1991); *Arnold Gustafson*, 41 ECAB 131 (1989); *Beth P. Chaput*, 37 ECAB 158 (1985).

**CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that the employee's death was causally related to his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 24, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 8, 2015  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board